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## CONGRESSIONAL RECORD — HOUSE

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STAT A nation can die of internal strife, of indifference, and of an inability to adjust to change.

A nation can die from internal strife, tearing itself apart—At New York University, members of the "SDS" slip into an auditorium where the Ambassador from South Vietnam is scheduled to speak. They storm the stage, manhandle the Ambassador and flee the hall. The young agitators then proceed to another room, batter down the doors and forcibly prevent columnist James Reston from delivering his speech. —At Tougaloo College in Mississippi students attend a closed-door "defense workshop" to discuss the elimination of mayors and police chiefs, the kidnapping of college authorities, and the instruction of ghetto residents in the use of firearms.

These recent incidents, by no means isolated, are graphic illustrations of a new breed of revolutionary violence that is gravely threatening America . . . the nation that stands for freedom.

A nation can die of indifference, of an unwillingness to face its problems—Everyday that passes, increases the potential of our foreign enemies, yet we are neglecting necessary measures needed to keep pace with the growing menace. At the same time internal violence threatens our freedom, yet, no greater threat to freedom exists than in the apathy of millions of Americans, who either don't know or don't care about the problems of this country.

Finally and quite simply, a nation can die of old age—a waning of energy, an inability to learn new ways and adjust to change, which, little by little, causes a nation to lose grip on its future. It is evident today that during the past ten years in many ways our nation has regressed, or at least, not made enough headway against the problems endangering American freedom. There is much discussion about why Rome fell, with the consistent conclusion that it fell because it veered away from old established patterns of citizenship and responsibility. The problem faced by Rome, now faces America: How to hold on to the basic values upon which our nation was founded while adjusting to the change which we cannot escape.

Today, as then, the solution is not to find better values, but to be faithful to those we profess. Then it is my responsibility to uphold the values of my forefathers, values embodied in our freedom, values that we, as Americans cherish—The American Dream . . . justice, liberty, equality of opportunity, the worth and dignity of the individual, brotherhood, and individual responsibility.

The responsibility of all Americans is to restore faith in the ability of our Democratic system to satisfy the needs of all its people, and, to restore faith in the sincerity of the American dedication to humanistic ideals. It is my personal responsibility as an American citizen to meet these challenges constructively, rather than through violence and dissension. It is my responsibility to speak out, I must take advantage of every opportunity to express my opinions about the goals and ideals I believe this nation should pursue, and the actions I feel are necessary to achieve them. I must let my voice be heard, my opinions understood, for it is only through the testing of ideas that we can hope to find immediate and appropriate solutions to the problems confronting us.

Finally, I must examine and evaluate the present performance of our governmental machinery and institutions in light of their responsiveness to the needs of all the people. I must analyze and so recommend those changes in government and institutions which will make them more adaptive to the problems of our rapidly changing society, so that freedom is preserved for my posterity.

I believe, by executing these ideas, that I am fulfilling my responsibility to myself, my

country, and most importantly . . . to freedom.

As the late Robert F. Kennedy stated . . . Some men see things as they are and say, why.

I dream things that never were and say, why not.

### THE EROSION OF CONGRESSIONAL POWER

(Mr. KASTENMEIER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. KASTENMEIER. Madam Speaker, I would like to call my colleagues' attention to an historical analysis by the codirector of the Institute for Policy Studies, Mr. Marcus Raskin, brilliant political theoretician, of the critical events of the past several decades generating the present debate about the erosion of congressional power by the executive branch. Mr. Raskin uses the Indochina war as the vehicle for his analysis of this power struggle which now appears to be extending to almost every area of public concern.

#### THE EROSION OF CONGRESSIONAL POWER

(By Marc Raskin)

America's war in Indochina has brought into focus, the momentous events which led its government into an imperial pattern of behavior. As the United States became the dominant world power in the twentieth century, the American ruling elite found itself legitimizing military incursions while routinizing and rationalizing the Executive's usurped powers of war-making. It whittled down the constitutional authority of Congress and systematically excluded the people from the process of making fundamental decisions on war and peace.

This series of events, which led to the militarization of the American government and a fundamental reliance on force in its relations abroad (and later at home) ran counter to a very different trend in American statecraft which developed after World War I—a trend toward viewing war itself and the making and planning of aggressive war as a crime. Such American statesmen as Secretary of State Frank Kellogg signed the Pact of Paris (Kellogg-Briand Pact) on outlawing war. By World War II, American officials, including Presidents Roosevelt and Truman, were denouncing the German and Japanese leaders as war criminals for having made war. A major charge leveled against them was that they had militarized their societies. American leaders proclaimed that the primary peace aims of the United States were the development of the rule of law, the demilitarization of Germany and Japan, and the holding to account of war criminals. Indeed, government officials even said that American citizens in future times would be able to hold leaders personally accountable for their actions. To this end the United States proposed resolutions in the United Nations General Assembly and signed and initiated charters on war crimes, treaties (as yet unratified) on genocide, and stern measures against militarism and ultranationalism.

But the Cold War intruded and American leaders began justifying their militarism in the name of defending the "free world" against "aggression"—a process that culminated in the massive and tragic adventure in Indochina. Now that the dead end of such political behavior has become plain, people are beginning to rediscover the other impulse in American statecraft: that of holding leaders accountable to the people and the law for their plans and actions. This may be

the major hope of avoiding the terrifying degeneration of American society and its governing processes. The rules and laws fashioned over several generations as the alternative to international terror politics, brush-fire wars, preemptive aggressive wars, and nuclear war are laws of personal responsibility which must be incorporated into the domestic law of nations. The irony of American history is that these two trends, that of imperial rule and that of holding leaders to personal account for war-making, principles applied in the flush of victory in 1945, must now stand in direct conflict with each other. The lesson of Vietnam could have been learned at Nuremberg, not Munich. The concept of rules of personal responsibility in public office or among "professionals" is not new. It poses a threat only to those who believe that power should remain untrammelled and that the populace should be held hostage to the wielders of such power. As Karl Jaspers has said, "For wherever power does not limit itself, there exists violence and terror, and in the end the destruction of life and soul."<sup>1</sup>

#### THE POWER TO WAGE WAR

Members of the Constitutional Convention understood that the power to declare and make war was not an abstraction. It meant the power to impress the young and destroy community, family, and commerce. For precisely these reasons the authority for undertaking war was not placed in the hands of the Executive. Alexander Hamilton, who on other matters favored wide latitude for the Executive, noted that the power to "embark" on war was something which the Constitutional Convention reserved for the Congress:

In direct contrast to the power of the British sovereign to initiate war on his own prerogative, the clause was the result of a deliberate decision by the framers to vest the power to embark on war in the body most broadly representative of the people.<sup>2</sup>

Thomas Jefferson wrote to James Madison in 1789:

We have already given in one example one effectual check to the Dog of War by transferring the power of letting him loose from the Executive to the Legislative body, from those who are to spend to those who are to pay.<sup>3</sup>

From its beginnings, the American form of government generated a built-in area of conflict. If the President had the power to determine foreign policy, suppose the foreign policy which he pursued should end in war, which fell within the power of Congress? In this debate the Hamiltonian view prevailed over the Madisonian: The day-to-day business of foreign policy was left in the hands of the President. However, the limits imposed on Presidential power in this regard were evident in the conduct of the early Presidents. As one recent Senate document has said, "The early Presidents carefully respected Congress's authority to initiate war." The Supreme Court, in an 1801 case, concluded that the "whole powers of war" were "vested in Congress." Historians have pointed out that Presidents Adams and Jefferson declined to act against France despite their conviction that France was invading and destroying American shipping. Hamilton told Adams in an official opinion, "In so delicate a case, in one which involves so important a consequence as that of war, my opinion is that no *doubtful* authority ought to be exercised by the President."<sup>4</sup>

Yet, according to Alexander Hamilton, the President, on his own authority, had the power to "repel sudden attacks." But what was a sudden attack? And on what? The question has never been fully resolved. Hornbook learning in constitutional law supported

Footnotes at end of article.